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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10063,953	05/29/2002	Erik Coelingh	201-0699	2370
284,843	06/25/2003			

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EXAMINER
HERNANDEZ, OLGA

ART UNIT	PAPER NUMBER
3661	

DATE MAILED: 06/25/2003

175 Response Due
in September 25, 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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PRICE, HENEVELD, COOPER
DEWITT & LITTON
PER _____

Office Action Summary

Application No.

10/063,953

Applicant(s)

COELINGH ET AL.

Examiner

Olga Hernandez

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133)
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 6/10/03 have been fully considered but they are not persuasive. The examiner disagrees with the applicant's statement: "it was agreed the term *capabilities* used in the claims is a positive limitation because the claims do not say that an element is capable of performing a function, but the word *capabilities* refers to an element of the claim."

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6-8, 13, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sigl (5,794,735).

As per claims 1 and 8, Sigl discloses:

- inputting an intended driving demand to a vehicle motion control subsystem, the intended driving demand requesting a vehicle behavior modification (figure 1);
- proving a plurality of coordinator subsystems (columns 2-3);
- providing at least one actuator control subsystem for each coordinator subsystem (figure 1);

- outputting actuator *capabilities* of the at least one actuator control subsystem to an associated one of the plurality of coordinator subsystem (figure 1);
- calculating at least one coordinator demand signal being determined according to the coordinator *capabilities* and the intended driving demand (figure 1);
- outputting the at least one coordinator demand signal to at least one of the coordinator subsystems (figure 1);
- calculating at least one actuator demand signal with each of the at least one of the coordinator subsystems, the at least one actuator demand signal being determined according to the actuator *capabilities* and the at least one coordinator demand signal outputted to the at least one of the coordinator subsystems (figure 1); and
- outputting the at least one actuator demand signal to the at least one actuator control subsystem (figure 1);
- wherein a combination of each at least one actuator demand signal provides directions for the at least one actuator control subsystem to perform the vehicle behavior modification of the intended driving demand (figure 1).

Further, it has been held that the recitation that an element is "**capabilities**" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

As per claims 6, 7, 13 and 14, Sigl discloses inputting actuator state measurements into the at least one actuator control subsystem (figure 1). Further, it has been held that the recitation that an element is "**capabilities**" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

As per claim 15, Sigl discloses:

- receiving at least one driver input from a driver of the vehicle (figure 1);
- providing at least one active assist program having at least one active input, the at least one active assist program having an on setting wherein the at least one active assist program outputs at least one active input and an off setting wherein the at least one active program does not output at least one active input (column 2, lines 30-59);
- inputting an intended driving demand for implementing a vehicle behavior modification into a vehicle motion control subsystem (figure 1);
- providing an implementation subsystem (abstract); and
- outputting at least a portion of the intended driving demand from the vehicle motion control subsystem to the implementation subsystem (figure 1);
- wherein the intended driving demand is derived from a combination of the at least one driver input and at least one active input if the at least

one active assist program is in the on setting and if the driver of the vehicle does not overrule the at least one active assist program, otherwise the intended driving demand is derived from the at least one driver input (column 3, lines 4-54).

Allowable Subject Matter

3. Claims 2-5, 9-12, 16-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terminology used in the claim does not define the meets and bounds of the invention. An example of this is in claim 1, line 7, "outputting actuator capabilities." Is it going to output the actuator capabilities? What capabilities are those? Where is it described and supported by the disclosure of the invention?

Claim Objections

6. Claims 1-7 are objected to because of the following informalities:

Claim 1 contains a grammar error (line 4). It is understood that instead of "proving" it should read, "providing."

Appropriate correction is required.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Hernandez whose telephone number is (703) 305-0918. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Olga Hernandez
Examiner
Art Unit 3661



June 18, 2003

WILLIAM A. CUCHLINSKI, JR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600